

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Jimmie Lucas and Clarence Wilson,

Plaintiffs,

v.

United Parcel Service, Inc.,

Defendant.

Civil Action No. 3:21-cv-02328-SAL

NOTICE OF REMOVAL

COMES NOW Defendant United Parcel Service, Inc. (“UPS” or “Defendant”), by and through its undersigned counsel, and files this Notice of Removal in the above-captioned action pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. In support of removal, Defendant respectfully asserts the following:

1. Plaintiffs Jimmie Lucas and Clarence Wilson (“Plaintiffs”) filed their Summons and Complaint in the Court of Common Pleas for the State of South Carolina, Lexington County, Civil Action No. 2021-CP-32-02203, on July 7, 2021. A copy of the Summons and Complaint is attached as **Exhibit A**. Defendant has received no other process, pleadings, or orders.

2. Plaintiffs served Defendant’s Registered Agent with a copy of the Summons and Complaint via Certified Mail, which was received on July 9, 2021. Accordingly, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

3. The United States District Court for the District of South Carolina, Columbia Division, is the federal judicial district embracing the Lexington County Court of Common Pleas, where this action was originally filed and where the events alleged in the Complaint are said to have occurred. Thus, venue is proper in this Court under 28 U.S.C. § 1441(a).

4. Pursuant to 28 U.S.C. § 1446(d), Defendant is concurrently filing a Notice of Filing Notice of Removal with the Clerk of Court for the Lexington County Court of Common Pleas and serving Plaintiff with a copy of this Notice of Removal and a copy of the Notice of Filing Notice of Removal.

5. As explained below, this Court has jurisdiction over this action based on federal question jurisdiction pursuant to 28 U.S.C. § 1331.

6. Therefore, this action may be removed to this Court under 28 U.S.C. § 1441(a)-(c).

FEDERAL QUESTION JURISDICTION

7. Plaintiffs' Complaint alleges claims under the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, as well as a claim under the South Carolina Payment of Wages Act ("SCPWA"), S.C. Code Ann. § 41-10-10 *et seq.*, and common law claims for promissory estoppel and quantum meruit. (*See generally* Compl.)

8. Plaintiffs' claims pursuant to the FLSA arise solely under the laws of the United States and could have originally been brought before this Court pursuant to 28 U.S.C. § 1441(a).

9. This Court has pendent jurisdiction over Plaintiffs' claims under South Carolina statutory and common law because those claims derive from "a common nucleus of operative fact" as Plaintiffs' federal claims and are so related to their federal claims that they "form part of the same case or controversy." 28 U.S.C. § 1367(a); *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966). In particular, all of Plaintiffs' claims include allegations regarding the employment relationship between Plaintiffs and Defendant. (*See generally* Compl.) These commonalities are sufficient to establish supplemental jurisdiction over Plaintiffs' state law claims. *See McFarland v. Va. Retirement Servs.*, 477 F. Supp. 2d 727, 731-32 (E.D. Va. 2007) (exercising jurisdiction over FLSA claim and state wrongful discharge claim) (citing *White v. County of Newberry*, 985 F.2d 168, 171 (4th Cir. 1993)).

10. Therefore, this Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331, and this action may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

LOCAL CIVIL RULE REQUIREMENTS

11. Defendant has complied with the requirements of Rules 83.IV.01 and 83.IV.02 of the Local Civil Rules of the United States District Court for the District of South Carolina.

12. Defendant has also filed its' responses to Local Civil Rule 26.01 Interrogatories simultaneously with this Notice of Removal.

WHEREFORE, Defendant prays that the above action now pending in the Court of Common Pleas for the State of South Carolina, Lexington County, be removed to this Court.

Dated: July 28, 2021

/s/ William H. Foster

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CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and served the foregoing via First Class Mail, postage prepaid, upon the following counsel of record:

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